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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,795	02/19/2002	Robert Bridges	BOUL/0007	1519

7590 09/25/2003

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EXAMINER

HOOLAHAN, AMANDA J

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,795

Applicant(s)

BRIDGES, ROBERT

Examiner

Amanda J Hoolahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) 29-30 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading.

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

In this case, appropriate headings should be added to the specification.

Claim Objections

2. Claim 33 is objected to because of the following informalities: The failure element in line 4 of claim 33 lacks antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8-19, 21-24, and 26-28 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 3,846,795 to Jones.

Jones discloses a device for detecting the exposure of a corrosive element, the device comprising an indicator element (26) which is held in a first position by means of a failure element (30) which is held in tension, the failure element being made of a material which fails in the exposure to a corrosive environment, thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide an indication of the presence of the corrosive element; the indicator element is held in the first position by a biasing force, the biasing force acting to move the indicator element to the second position upon failure of the failure element; the biasing force is provided by the resilience of the indicator element; the resilient indicator element is a spring which is fixed to the failure element, the spring being under

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compression, such that the failure element is under tension; failure element is a tubular member; the tubular member is sealed, the inside of the tubular member is maintained at a pressure other than atmospheric, and means (42) are provided to monitor this pressure to determine the integrity of the tubular member; the failure element is made of a material which changes its appearance in the presence of the contaminant (column 5, lines 7-14); the indicator element is held in the first position by a biasing force and wherein a further force, which is strong enough to override the biasing force is arranged to act on the indicator element to move it to the second position upon failure of the failure element; the failure element is a tubular element and the indicator element is within the tubular element and is fixed at one end to the failure element, while its other end projects beyond the other end of the failure element and is biased away from the other end of the failure element; the failure element and indicator element are arranged to be supported vertically, wherein the further force is gravity (see Figure 1); the failure element comprises a number of different materials (column 6, lines 67-68) arranged in series and/or in parallel.

Jones does not disclose the device being used for the detection of the presence of a chemical leak.

However, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to claims 27-28: Jones does not disclose an arrangement comprising a plurality of devices arranged over an area and arrange them substantially parallel. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to

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arrange a plurality of devices over an area and arrange them parallel since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to arrange a plurality of devices substantially parallel over an area in order for the user to be able to see the devices and be able to compare them to one another equally.

5. Claims 7 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of European Patent Application No. 0 370 685 to Beard et al. [hereinafter Beard].

Jones s discloses the device as described above in paragraph 4 including a nut (A).

Jones does not disclose the spring being attached to the failure element by a respective starlock washer at the end of the spring, each washer being anchored to the failure element so as to be capable of movement in only one direction along the failure element.

Beard discloses a starlock washer (40) attached at the end of a spring (42) so that the spring is capable of movement in only one direction. The use of a particular type of constraint claimed by the applicant, is considered to be nothing more than a choice of engineering skill, choice, or design because since both are well known alternate types of constraints which will perform the same function, if one is replaced with the other, it is considered to be nothing more than the use of one of numerous and well known alternate types of constraints that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to hold the spring in place, as already suggested by Beard. Therefore, it would have been

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obvious to a person having ordinary skill in the art at the time the invention was made to use the starlock washer, disclosed by Beard, rather than the nut, disclosed by Jones, in order for the spring to have a more secure connection to the failure element.

6. Claims 31-32 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,710,353 to Tanaka et al. [hereinafter Tanaka] in view of Jones.

Tanaka discloses a device wherein normal use of the device comprises a method of detecting a corrosion/chemical leakage in a site of potential corrosion/chemical leakage and monitoring a failure element (2).

Tanaka does not disclose the device comprising the steps of positioning the device as stated in claim 1 and determining when it has moved to a second position indicating the presence of a leak.

Jones discloses a corrosion/leakage device as described above in paragraph 4. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the device, as taught by Jones, for the use of detecting a chemical leakage, disclosed by Tanaka, in order for the user to have an alternative means of detecting corrosion/leakage since the devices disclosed by Jones and Tanaka are art equivalents of one another.

Response to Arguments

7. Applicant's arguments with respect to claims 1-24 and 26-28 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claims 29, 30, and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

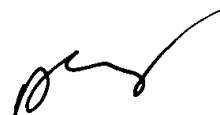
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda J Hoolahan whose telephone number is (703) 308-0139. The examiner can normally be reached on Monday through Friday 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F Gutierrez can be reached on (703) 308-3875. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

ajh
August 25, 2003



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800